

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DIANE E. MCCUALEY,

Plaintiff,

No. 08-CV-0067

vs.

(FJS/VEB)

MICHAEL J. ASTRUE
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES:

OF COUNSEL

For the Plaintiff

Olinsky, Shurtliff Law Firm
300 S. State Street, 5th Floor
Syracuse, NY 13202

Howard Olinsky, Esq.

For the Defendant

Michael J. Astrue, Commissioner of
of Social Security
Office of Regional General Counsel - Region II
26 Federal Plaza - Room 3904
New York, New York 10278

Andrea L. Lechleitner, Esq.

FREDERICK J. SCULLIN, JR., S.J.

DECISION AND ORDER

Currently before the Court is Magistrate Judge Victor E. Bianchini's November 16, 2009

Report and Recommendation to which the parties have filed no objections. Having reviewed that Report and Recommendation and the entire file in this matter, the Court hereby

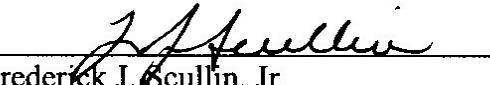
ORDERS that the Report and Recommendation of Magistrate Judge Victor E. Bianchini filed November 16, 2009 is **ACCEPTED** in its entirety, for the reasons stated therein, and the Court further

ORDERS that Defendant's motion for judgment on the pleadings is **DENIED**; and the Court further

ORDERS that the decision of the Commissioner is **REVERSED**, and that the case is **REMANDED** to the Commissioner for further proceedings consistent with the Report and Recommendation

IT IS SO ORDERED.

Dated: December 15, 2009
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge